

## RETIREMENT AGREEMENT AND RELEASE

This Retirement Agreement and Release ("Agreement"), dated July 30, 2019, between the Board of Trustees of Michigan State University, a constitutional body corporate, (the "Board") and Dr. Lou Anna Kimsey Simon. In consideration of the mutual promises and releases contained in this Agreement, the parties agree as follows. The parties' agreement to the terms contained in this Agreement shall not be interpreted as an admission of fault or wrongdoing by any party.

1. **Retirement.** Dr. Simon has met the requirements to become an official Michigan State University (the "University") retiree per the Retiring From the University Policy and will retire from her employment as a tenured faculty member at the University effective August 31, 2019. Dr. Simon will submit retirement documents reflecting the retirement date on or before August 30, 2019.
2. **Assigned Duties.** Until her retirement on August 31, 2019, Dr. Simon will remain on a voluntary leave of absence without pay and have no assigned duties.
3. **Personal Property and University Property.** The University will arrange and pay for the cost of boxing and transporting Dr. Simon's personal property located in Wills House to a destination of her designation by August 31, 2019. The University will exercise due care in boxing and transporting Dr. Simon's personal property (including personal computer equipment). Dr. Simon will return all University keys, property, and equipment on or before August 31, 2019, except for identity or access cards permitted for retirees.
4. **Presidential Contract Lifetime Benefits.** Upon retirement, Dr. Simon, for her lifetime, and her spouse, for his lifetime, will continue to be entitled to the Lifetime Benefits outlined in section 12(b) of the Employment Agreement, executed December 14, 2012, and amended December 13, 2013 and January 1, 2015 (collectively, the "Employment Agreement"). Dr. Simon also will be entitled to all of the usual rights and privileges as, and will be treated consistently with, other presidents emeriti and retired tenured faculty members. For purposes of clarification only, with respect to the Lifetime Benefits described in paragraph 12(b)(ii) of the Employment Agreement, the University will reserve athletics tickets for purchase by Drs. Lou Anna and Roy Simon throughout their lifetimes in the same locations as the tickets they held in 2018, including in particular for season football tickets in the Huntington Club and for men's basketball, men's ice hockey, and volleyball; since 2018, Drs. Lou Anna and Roy Simon have chosen voluntarily to purchase the reserved tickets from the University.
5. **Emeritus Status.** In addition to her title of President Emeritus, Dr. Simon will hold the title of John A. Hannah Distinguished Professor Emeritus, and she will be entitled to the usual rights and privileges associated with emeritus status, subject to the following modifications. The University will not provide Dr. Simon with office space. The University will provide Dr. Simon, as President Emeritus, and her spouse with technical computer support at no direct cost to them and will provide them with access to all University computer services, including voicemail, consistent with paragraph 12(c) of the Employment Agreement. The University will publicly recognize Dr. Simon and her spouse in the same manner as other President Emeriti and spouses and Distinguished Professor Emeriti and spouses, including commissioning an official portrait of Dr. Simon paid for by the University and displaying the portrait consistent with the practice for presidents emeriti; however, such public recognition

of Dr. Simon's emeritus status may be withheld if the pending criminal charges result in a felony conviction that is upheld after all post-trial motions and appellate issues are finally adjudicated. Nothing in this paragraph shall affect emeritus recognition for Dr. Roy Simon individually, nor shall it affect the recognition of Drs. Lou Anna and Roy Simon as donors to the University.

6. **Post-Retirement Benefits.** The University will transition Dr. Simon directly from active employment to retirement, and upon retirement Dr. Simon individually will be provided with all of the retirement and other fringe benefits to which University executive managers are entitled, as outlined in Exhibit A to the Employment Agreement and per the University Retiree Benefits policy, including a University contribution to retiree health care and dental coverage for herself and her spouse. Nothing in this Agreement shall be construed or implemented to impact negatively Dr. Simon's individual health insurance or other post-retirement benefits.
7. **Indemnification Post-Retirement.** Upon Dr. Simon's retirement, she will continue to be eligible for all benefits under the University's Indemnification Policy to which trustees, officers, faculty, and staff are eligible. The University considers the indemnification to be a working condition fringe benefit.
8. **Access to Archives.** The University will provide Dr. Simon reasonable access to all archived material, including electronic archives regardless of format, related to her tenure at the University, subject to all applicable policies and procedures governing University Archives. Reasonable access includes technological assistance to access archived material, whether stored on- or off-campus, consistent with assistance provided to other presidents emeriti and retired faculty.
9. **Retirement Announcement and Donor Recognition.** The University will prepare an announcement regarding Dr. Simon's retirement that is mutually acceptable to both parties, with such acceptance by either party not to be unreasonably withheld. In the announcement, the University will recognize the philanthropy of Dr. Simon and her spouse. In addition to the announcement, the University will also recognize the philanthropy of Dr. Simon and her spouse, collectively and individually, in the same manner as donors of similar charity to the University.
10. **Consideration.** Dr. Simon will be paid, in three equal installments, a total gross sum of \$2,450,000, subject to applicable tax withholdings at the highest federal and state marginal rates, which approximates Dr. Simon's waiver of expected compensation (salary, retirement contributions and other benefits), and less pre-tax deferrals to her University retirement plans at the maximum amounts permitted. The first installment payment under this paragraph shall be made on the first University payroll distribution after August 31, 2019. The second installment payment under this paragraph shall be made on the first University payroll distribution after January 1, 2020. The final installment payment under this paragraph shall be made on the first University payroll distribution after January 1, 2021.
11. **Release.** By accepting and agreeing to the terms and conditions of this Agreement, Dr. Simon waives and releases and covenants not to sue, grieve, or otherwise bring a complaint against Michigan State University, its trustees, directors, officers, employees, and/or agents, in their individual and/or official capacities, with respect to any and all claims and actions arising

(i) out of her employment or the termination thereof and (ii) before the Effective Date, including, but not limited to, claims and actions based upon federal or state law or University policies, rules, or handbooks, and claims under the Federal Age Discrimination in Employment Act, as amended, 29 USC §§621, et seq. Included in this release is Dr. Simon's agreement that she will not file a grievance or complaint pursuant to any internal University procedures. Dr. Simon waives and releases any right to recover damages relating to any complaint filed with any state or federal civil rights agency, including the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights. This release does not prevent the parties from bringing a claim based on an alleged breach of this Agreement or to enforce any provision of this Agreement.

**12. Tax Liability.** The University does not guarantee personal tax treatment of any payments or benefits under this Agreement. Dr. Simon will be responsible for any personal income tax liability incurred as a result of this Agreement.

**13. Consultation.** Dr. Simon agrees that she received a copy of this Agreement on July 30, 2019; that on that date she was advised to consult with an attorney before executing this Agreement and that she has been given at least twenty-one (21) calendar days within which to consider this Agreement and its terms. The offer set forth by this Agreement shall remain open until August 20, 2019.

**14. Revocation.** If this Agreement is executed by the parties, Dr. Simon shall have seven (7) calendar days following execution of this Agreement to revoke it. Any revocation of this Agreement shall be made in writing by Dr. Simon and shall be received by the Board on or before the close of business on the 7th calendar day following the date of Dr. Simon's execution of this Agreement. This Agreement shall become effective on the eighth (8<sup>th</sup>) day following execution of this Agreement by both parties (the "Effective Date").

**15. Acknowledgment.** Dr. Simon and the University acknowledge that they have read and understand this Agreement, that they have had adequate time to consider this Agreement and discuss it with their attorneys and advisors, that they understand the consequences of entering into this Agreement, that they are knowingly and voluntarily entering into this Agreement, and that they are competent to enter into this Agreement. This Agreement is to be interpreted as being jointly negotiated and drafted.

**16. Choice of Law.** This Agreement shall be interpreted in accordance with the law of Michigan.

**17. Entire Agreement.** This Agreement is the entire agreement between Dr. Simon and the University concerning her retirement and the termination of the employment relationship. It supersedes all prior and contemporaneous oral or written agreements or understandings between the parties concerning the termination. There are no other agreements or understandings between Dr. Simon and the University concerning her retirement and the termination of her employment relationship. Any modification of this Agreement must be in writing and signed by both parties to be binding.

**18. Severability.** If any provision of this Agreement is determined to be unenforceable, the remainder of this Agreement shall not be affected, but each remaining provision shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

19. **Other Agreements.** This Agreement is limited to matters pertaining to Dr. Simon's retirement from employment with the University. Except as expressly modified by the terms of this Agreement, all other contracts, agreements, commitments or legal obligations between the parties remain in full force and effect.
20. **Survival.** The benefits provided under this Agreement individually and collectively to Drs. Lou Anna and Roy Simon, in particular the Consideration in Paragraph 10, are irrevocable and shall survive the death of Dr. Lou Anna Simon, at which event the Consideration and other benefits shall pass to Dr. Roy Simon, if surviving, or else to Dr. Lou Anna Simon's estate.
21. **Counterparts.** This Retirement Agreement and Release may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

By my signature below, I represent that I have read the foregoing Retirement Agreement and Release, including my waiver and release of claims, that I am duly authorized to enter into this Agreement, and I agree to be bound by the terms of such Retirement Agreement and Release.

  
Lou Anna Kimsey Simon

Date: 07-30-2019

BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY

By: 

Dianne Byrum, Chair

Date: 07-30-2019